

FLORIDA KEYS PROTECTION ACT

JULY 12, 1990.—Ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 3719]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 3719 which on November 17, 1989 was referred jointly to the committees on Merchant Marine and Fisheries and Foreign Affairs) to establish the Florida Keys National Marine Sanctuary, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Florida Keys Protection Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds:

(1) The unique marine environment adjacent to the Florida Keys supports diverse biological communities possessing extensive recreational, commercial, ecological, historical, cultural, research, educational, and aesthetic values which give this area special national significance.

(2) This marine environment is subject to damage and loss of its biological integrity from a variety of onshore and offshore disturbances.

(3) Many serious threats to the living marine resources and water quality of the Florida Keys exist within and outside the Keys which have not been successfully managed by existing State and Federal efforts.

(4) Congress should take action to protect the Florida Keys through domestic law and through other practices which are consistent with generally recognized principles of international law.

(b) PURPOSE.—The purpose of this Act is to protect the living marine and other resources of the Florida Keys by establishing a Florida Keys National Marine Sanctuary and by creating an area to be avoided by certain vessel traffic in the vicinity of the Florida Keys.

SEC. 3. POLICY.

It is the policy of the United States to protect the living marine and other resources of the Florida Keys.

TITLE I—FLORIDA KEYS NATIONAL MARINE SANCTUARY

SEC. 101. DESIGNATION OF SANCTUARY.

(a) DESIGNATION.—The area described in subsection (b) is designated as the Florida Keys National Marine Sanctuary (hereinafter "Sanctuary") under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.). The Sanctuary shall be managed in compliance with all applicable provisions of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 as if the Sanctuary had been designated under that Act.

(b) SANCTUARY BOUNDARIES.—The Sanctuary designated in subsection (a) shall consist of all submerged lands and waters, including living marine and other resources within and on those lands and waters, from the baseline from which the territorial sea is measured and the U.S. Route 1 bridges seaward to the 300-foot isobath and bounded by the following coordinates—

- (1) Latitude 25 degrees, 20.5 minutes north by Longitude 80 degrees, 15.1 minutes west.
- (2) Latitude 25 degrees, 20.1 minutes north by Longitude 80 degrees, 14.6 minutes west.
- (3) Latitude 25 degrees, 20.1 minutes north by Longitude 80 degrees, 12.6 minutes west.
- (4) Latitude 25 degrees, 19.45 minutes north by Longitude 80 degrees, 12 minutes west.
- (5) Latitude 25 degrees, 16.2 minutes north by Longitude 80 degrees, 8.7 minutes west.
- (6) Latitude 25 degrees, 7.5 minutes north by Longitude 80 degrees, 12.5 minutes west.
- (7) Latitude 25 degrees, north by Longitude 80 degrees, 17 minutes west.
- (8) Latitude 24 degrees, 56 minutes north by Longitude 80 degrees, 21 minutes west.
- (9) Latitude 24 degrees, 48 minutes north by Longitude 80 degrees, 35 minutes west.
- (10) Latitude 24 degrees, 42 minutes north by Longitude 80 degrees, 45 minutes west.
- (11) Latitude 24 degrees, 36 minutes north by Longitude 81 degrees, 1 minute west.
- (12) Latitude 24 degrees, 30 minutes north by Longitude 81 degrees, 22 minutes west.
- (13) Latitude 24 degrees, 26 minutes north by Longitude 81 degrees, 44 minutes west.
- (14) Latitude 24 degrees, 24.5 minutes north by Longitude 81 degrees, 53 minutes west.
- (15) Latitude 24 degrees, 24.5 minutes north by Longitude 82 degrees, 10 minutes west.
- (16) Latitude 24 degrees, 23 minutes north by Longitude 82 degrees, 27.8 minutes west.
- (17) Latitude 24 degrees, 34.5 minutes north by Longitude 82 degrees, 57 minutes west.
- (18) Latitude 24 degrees, 43 minutes north by Longitude 81 degrees, 54.1 minutes west.
- (19) Latitude 24 degrees, 38.5 minutes north by Longitude 81 degrees, 51 minutes west.
- (20) Latitude 24 degrees, 33.5 minutes north by Longitude 81 degrees, 41 minutes west.

(c) BOUNDARY MODIFICATION.—The Secretary of Commerce, in consultation with the Governor of Florida, if appropriate, may make minor boundary modifications to the Sanctuary to ensure efficient management and enforcement of the comprehensive management plan for the Sanctuary.

(d) AREAS WITHIN STATE OF FLORIDA.—The designation in subsection (a) shall take effect for any area located within the waters of the State of Florida if, not more than 45 days after the date of enactment of this Act, the Governor of the State of Florida objects in writing to the Secretary of Commerce.

SEC. 102. IMPLEMENTATION.

(a) **IN GENERAL.**—Consistent with this Act, the Secretary of Commerce shall hold public hearings and issue a comprehensive management plan and regulations under section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) for the Sanctuary.

(b) **CONTENTS OF COMPREHENSIVE MANAGEMENT PLAN.**—The management plan prepared under this section shall include provisions which—

(1) incorporate existing national marine sanctuaries offshore Florida within the Sanctuary with minimum disruption to current users;

(2) identify sources of harmful environmental impacts on Sanctuary resources from within and without the Sanctuary, giving special attention to water quality effects on living marine resources;

(3) identify alternative sources of revenue to support the management of the Sanctuary and to supplement appropriations pursuant to this Act and section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444).

(c) **CONSIDERATION OF ADVISORY COUNCIL VIEWS.**—(1) The Secretary of Commerce shall give full consideration to the views of the Advisory Council established under section 103 of this Act in the development and implementation of the comprehensive management plan for the Sanctuary.

(2) The Secretary of Commerce shall respond in writing to any recommendations made by the Advisory Council.

(d) **VESSEL DAMAGE PROHIBITION.**—Pending completion of the comprehensive management plan, no person shall operate a vessel to strike or otherwise damage the natural resources of the Sanctuary. The Secretary of Commerce shall enforce this subsection under sections 305 and 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435 and 1437).

SEC. 103. ADVISORY COUNCIL.

(a) **ESTABLISHMENT.**—There is established an Advisory Council to assist in the development of a comprehensive management plan for the Sanctuary, to advise the Secretary of Commerce in the implementation of this management plan, and to provide a continuing forum to assist the Secretary of Commerce to resolve conflicts among users of Sanctuary resources.

(b) **MEMBERSHIP OF ADVISORY COUNCIL.**—(1) The Advisory Council shall have 15 members, including representatives of appropriate commercial and recreational users of the marine environment of the Florida Keys, conservation organizations, the marine scientific and educational community, and Federal, State and local governments. The Advisory Council shall be comprised of—

(A) 5 representatives of the Federal Government, with 1 each from the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, the U.S. Coast Guard, the U.S. Fish and Wildlife Service, and the National Park Service;

(B) 1 representative of the South Atlantic Regional Fishery Management Council;

(C) 3 representatives from the State of Florida, with 1 each from the Florida Department of Environmental Regulation, the Florida Department of Natural Resources, and the Florida Department of Community Affairs; and

(D) 6 individuals, with 3 appointed by the Board of County Commissioners of Monroe County, and 3 appointed by the Governor of Florida.

(2) Initial appointments to the Advisory Council made under subparagraph (1)(D) shall be staggered so that 1 representative appointed by the Board of County Commissioners of Monroe County and 1 representative appointed by the Governor of Florida shall be eligible for reappointment or replacement every two years. Other appointments shall be made for a term of six years.

(3) Vacancies on the Advisory Council shall be filled in the same manner as the original appointment.

(c) **FEDERAL ADVISORY COMMITTEE ACT.**—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Advisory Council.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 313(2) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444(2)) is amended by striking "(C) \$3,000,000 for fiscal year 1991; and (D) \$1,250,000 for fiscal year 1992" and inserting "(C) \$3,750,000 for fiscal year 1991; and (D) \$4,000,000 for fiscal year 1992".

TITLE II—PROHIBITION ON CERTAIN VESSEL TRAFFIC

SEC. 201. AREA TO BE AVOIDED.

(a) **PROHIBITION.**—Consistent with generally recognized principles of international law, a person may not operate a tank vessel (as that term is defined in section 2101 of title 46, United States Code) or a vessel greater than 50 meters in length in the Area to Be Avoided described in the Federal Register notice of May 9, 1990 (55 Fed. Reg. 19418–19419).

(b) **MODIFICATION.**—The prohibition in subsection (a), including the area to which the prohibition applies, may be modified by regulations issued jointly by the Secretary of the Department in which the Coast Guard is operating and the Secretary of Commerce.

(c) **EFFECTIVE DATE.**—Subsection (a) shall be effective the earliest of—

- (1) six months from date of enactment of this Act;
- (2) publication of a notice to mariners consistent with this section; or
- (3) publication of new nautical charts consistent with this section.

SEC. 202. PENALTIES.

Any person or vessel subject to the jurisdiction of the United States who violates this title shall be considered to have violated title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) and will be subject to the penalties, enforcement procedures, and liabilities for damages in that Act.

TITLE III—MISCELLANEOUS

SEC. 301. PROHIBITION.

No leasing, exploration, development, or production of minerals or hydrocarbons shall be permitted within the Florida Keys National Marine Sanctuary.

PURPOSE OF THE BILL

The purpose of H.R. 3719 is to protect the coral reefs and other living and nonliving marine resources of the Florida Keys by establishing a Florida Keys National Marine Sanctuary and by prohibiting certain types of vessel traffic in the vicinity of the Florida Keys.

The bill designates as a national marine sanctuary an area of the marine environment on the Atlantic side of the Florida Keys from the mean high water mark seaward roughly to the 300-foot depth contour. The proposed sanctuary boundary follows the existing northern boundary of the Key Largo National Marine Sanctuary and extends to the western edge of Rebecca Shoal. H.R. 3719 also prohibits operation of tank vessels or vessels greater than 50 meters in length within the Area to be Avoided proposed to the International Maritime Organization by the Coast Guard, as described in the Federal Register notice of May 9, 1990 (55 Fed. Reg. 19418–19419).

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3719 was introduced by Mr. Fascell and Mr. Jones of North Carolina on November 17, 1989. The bill was referred jointly to the Committees on Foreign Affairs and Merchant Marine and Fisheries. Within the Merchant Marine and Fisheries Committee, the bill was referred jointly to the Subcommittee on Oceanography and Great Lakes and the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

The most extensive living coral reefs in North America are located offshore the Florida Keys. Throughout the area are found a variety of hard coral communities which form the basis of a complex, highly productive and discrete ecosystem. Coral thrives in warm

tropical seas with abundant sunlight and very low nutrient levels. Factors regulating coral growth are not well understood but the reefs require fairly pristine waters to grow. The reef is slowly built up by accumulation of the hard skeletons of millions of the small coral animals, or polyps, which live in large colonies. As a result of rapid development in the Florida Keys and heavy tourism based primarily on water sports, the coral reefs are in need of immediate protection.

Southbound ships traditionally hug the seaward edge of the reefs of the Florida Keys to avoid the northbound Gulf Stream current. Due to the relatively narrow corridor between the Gulf Stream and the reefs, ships often stray towards the reefs. Public attention was focused on the Florida Keys last fall when three freighter groundings occurred within a three-week period. On October 25, 1989, the *Alec Owen Maitland* ran aground within the Key Largo National Marine Sanctuary. The *Mavro Vetranic* ran aground in the Ft. Jefferson National Monument on October 30, 1989. Coral in the Key Largo Sanctuary was again damaged when the Greek freighter *Elpis* ran aground on November 10, 1989. These groundings destroyed a combined total of approximately 5,000 square meters of coral reef. Since 1980 there have been 196 reported groundings which have significantly damaged the reefs within the existing Key Largo and Looe Key National Marine Sanctuaries. Not all of the damage results from commercial traffic: the National Oceanic and Atmospheric Administration (NOAA) estimates there are 30-40 groundings each year due to smaller recreational vessels. Many small vessel groundings go unreported.

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA, 16 U.S.C. 1431 et seq.) authorizes the Secretary of Commerce to designate as a national marine sanctuary any area of ocean, coastal and Great Lakes waters for the purpose of preserving these areas for their conservation, recreational, ecological, historical, research, educational or esthetic values. The intent of MPRSA, reaffirmed repeatedly by this Committee, is to allow multiple uses of the sanctuaries, where possible, while recognizing that the overriding purpose of the program is resource protection. NOAA administers the National Marine Sanctuaries Program through the Marine and Estuarine Management Division of the Office of Ocean and Coastal Resource Management.

While no legislation can prevent ship groundings per se, the enforcement and penalties provisions of MPRSA (sections 307 and 312) provide a strong deterrent. Section 307 of MPRSA permits search and seizure of vessels used to violate sanctuary regulations and allows for civil penalties of up to \$50,000 per day of violation. Section 312 provides liability in rem for destruction of sanctuary resources and permits civil suits for recovery of response costs and monetary damages.

H.R. 3719 as introduced proposed to create a unified Florida Keys National Marine Sanctuary to protect the fragile live coral reefs from damage caused by ship groundings. The original bill would have prohibited most commercial vessel traffic within the designated sanctuary boundaries. Finally, the bill called for the Coast Guard to propose an Area to be Avoided (ATBA) to the Inter-

national Maritime Organization (IMO) to provide further protection from ship groundings for the coral reefs.

On May 9, 1990, the Coast Guard proposed an ATBA to the IMO to keep large vessels and those carrying oil and hazardous cargoes well offshore the reefs (55 Fed. Reg. 19418-19419). This proposal will be considered by the IMO Subcommittee on Safety of Navigation in September 1990 and could be approved by the IMO in general session in August of 1991. If approved, the ATBA would be marked as such on nautical charts and compliance by the shipping community would be voluntary.

COMMITTEE ACTION

The Subcommittee on Oceanography and Great Lakes held a joint hearing with the Subcommittee on Fisheries and Wildlife Conservation and the Environment on May 10, 1990. Testimony was heard from five panels regarding H.R. 3719. Representative Dante Fascell and Senator Bob Graham, the sponsor of the Senate companion bill (S. 2247), testified in support of their legislation. Most of the witnesses, including NOAA, were supportive of the proposal. Dissenting views were presented by a fisherman's organization, a group representing salvors, a group representing the live tropical fishery, and the Board of County Commissioners of Monroe County. All witnesses cited declining water quality as a threat to the coral reefs of equal or greater magnitude than ship groundings.

The Subcommittees held a joint markup on June 20, 1990, at which a substitute amendment was jointly offered by Chairmen Hertel and Studds. The substitute designates a Florida Keys National Marine Sanctuary but calls for development of a comprehensive management plan and regulations under section 304 of MPRSA (16 U.S.C. 1434). The substitute creates an advisory council of federal, state and local representatives to advise NOAA on development and implementation of the sanctuary management plan and regulations. Title II of the substitute prohibits large vessels and those carrying oil or hazardous cargoes from entering the ATBA proposed by the Coast Guard. Violations of title II of the bill are punishable under title III of MPRSA. The amendment was approved by voice vote.

The Full Committee markup of H.R. 3719 took place on June 27, 1990. Mr. Hertel offered an amendment banning leasing, exploration and development of minerals and hydrocarbons within the Sanctuary. The amendment passed by voice vote and the bill, as amended, was ordered reported by voice vote.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title.

The short title of the Act is the Florida Keys Protection Act.

Sec. 2. Findings and purpose

This section establishes the value of the Florida Keys as a nationally significant and threatened marine environment, which is inadequately protected by existing state or federal law. These findings are similar to those which would be made by the Secretary of

Commerce in designating the area as a national marine sanctuary under title III of MPRSA. Subsection (b) provides the purpose of the Act.

Sec. 3. Policy.

The policy of the United States is to protect the living marine and other resources of the Florida Keys.

TITLE I—THE FLORIDA KEYS NATIONAL MARINE SANCTUARY

Sec. 101. Designation

The Florida Keys National Marine Sanctuary is designated by law under this section. Although this procedure is a departure from the current practice of allowing the Secretary of Commerce to designate sanctuaries by regulation following the process outlined in section 304 of MPRSA, the Committee intends that the legal status of the Florida Keys National Marine Sanctuary shall be identical to existing marine sanctuaries established by the Secretary, including the provisions for respecting access and valid rights found in section 304(c). Likewise, the management plan and regulations for the Florida Keys National Marine Sanctuary are to be developed in the same manner as for other sanctuaries, following the provisions of sections 304(b) and 304(c) of MPRSA.

Subsection (b) provides the boundaries of the new sanctuary, which stretch from the southern boundary of Biscayne National Park to Rebecca Shoal, west of Key West, Florida. Because the majority of the coral reefs which make this area so biologically important lie on the Atlantic Ocean side of the Keys within the 300-foot depth line, the boundaries extend generally only along the southern side of the Keys from the mean high water mark to the 300-foot isobath. Between islands, the Sanctuary lies south of U.S. Route 1. Only submerged lands and waters are included in the Sanctuary, but natural and historic resources on and in these lands and waters are to be managed as part of the Sanctuary.

Aware of concerns that the Sanctuary should protect the coral reefs of the Keys while allowing for a manageable size, the Committee accepted NOAA's boundary recommendation which encompasses a smaller area than in the bill as introduced. However, the Florida Keys National Marine Sanctuary will still be the largest sanctuary yet created. Because of the size of the Sanctuary, the Committee encourages NOAA to explore "use zones" as a management technique to regulate activities which could harm sanctuary resources in areas of special ecological sensitivity while allowing freer use in less critical areas. The witnesses at the hearing on H.R. 3719 noted that the use zone concept has been successfully employed to protect the Great Barrier Reef offshore Australia.

The Secretary of Commerce may make minor boundary changes if necessary to aid sanctuary management, for example to clarify boundaries abutting other federal and state marine parks. The Governor of Florida must be consulted for changes involving areas in waters of the State of Florida, which extend on the Atlantic side of the state three nautical miles and on the Gulf of Mexico side to three marine leagues.

Under subsection (d), the Governor of Florida may delete areas of Florida State waters from the Sanctuary, if notice is provided to the Secretary of Commerce within 45 days of enactment of this Act. This provision is included because H.R. 3719 delineates the sanctuary boundaries prior to development of a management plan, in contrast with the normal designation process under MPRSA where sanctuary boundaries are delineated at the end of the process. The Governor of Florida will also have a 45-day period to review the final management plan prior to implementation of the plan within state waters, as provided in section 304(b)(1) of MPRSA.

Where the Florida Keys National Marine Sanctuary overlays or adjoins other state or federally protected areas, such as national wildlife refuges, the Committee encourages the Secretary of Commerce to enter into cooperative management and enforcement agreements to best use scarce personnel and management resources.

Sec. 102. Implementation

Because the bill creates the Sanctuary and determines its boundaries, the Secretary of Commerce will not need to follow the complete procedure for designation of a national marine sanctuary found in sections 303 and 304 of MPRSA, such as the preparation of a resource assessment report. However, the Committee expects that the Secretary will develop a draft management plan and regulations based on the terms of the designation, hold public hearings, and prepare an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In addition, the appropriate Regional Fishery Management Council must also be provided an opportunity to develop draft regulations for fishery resources within the Sanctuary, as provided in MPRSA section 304(a)(5). Notice should also be provided to the Committee and its Senate counterpart, for possible action under section 304(a)(6).

Because of the size of the Sanctuary and the fact that many of the residents of the Florida Keys make their livelihood from the resources of these waters, the Committee is especially concerned that the views of all parties be heard in developing the Sanctuary management plan. Therefore, the Committee recommends that, following the conduct of public hearings, representatives of the Secretary of Commerce meet upon request within concerned groups to discuss their views. Requested meetings should take place to the extent practicable and the record of these meetings shall be available to the public.

The boundaries of the new Florida Keys National Marine Sanctuary include two existing national marine sanctuaries, Key Largo and Looe Key. The management plan must incorporate these existing sanctuaries into the new sanctuary in an orderly fashion. To reduce confusion to the current users of these sanctuaries, the Committee intends that their existing regulations and management plans should remain in place until the completion of the Florida Keys management plan. In addition, the Florida Keys plan must also identify environmental threats to the Sanctuary, including those which exist outside the boundaries of the Sanctuary. The

Committee is especially concerned about runoff and other water pollution which have marred water quality and harmed the coral reefs of the Keys.

Finally, the management plan must identify other revenue sources to help support management of the Sanctuary. Alternative funding sources are particularly important because of the size of this sanctuary. The Committee expects that fines and damages recovered for sanctuary violations which exceed the costs of feasible restoration projects be used to enhance management of the sanctuary where the damage or violation occurred, in accordance with section 312(d) of MPRSA. The settlement on the 1984 grounding of the *M-V Wellwood* has made funds available for the existing Key Largo Sanctuary. It is expected that any funds in excess of those used for resource restoration would be used for improved sanctuary management within the Florida Keys National Marine Sanctuary.

The development of the management plan, and its later implementation, must be made with the assistance of the Advisory Council established under section 103 of this Act. The Secretary must give great weight to the views of the Advisory Council. Furthermore, the Secretary must respond in writing to recommendations made by the Advisory Council, with particular attention to justifying rejection of any of the recommendations.

To protect the coral reefs from vessel groundings and other threats pending completion of the management plan for the Sanctuary, persons who strike or otherwise injure coral or other natural resources in the Florida Keys Sanctuary are subject to penalties under MPRSA, including monetary damages for natural resource damage. The Committee hopes that the threat of these penalties and possible seizure and forfeiture of vessels will result in more careful vessel operation and diving activities in the Keys. The Committee notes that the recreational diving community has endorsed establishment of a Florida Keys National Marine Sanctuary, and the Committee applauds this display of foresight and concern for the resource which forms the basis of south Florida's sport diving industry.

After the completion of the management plan and implementing regulations, the procedures found in MPRSA section 304(b) shall apply. These allow Congressional disapproval of the terms of the designation and Gubernatorial veto over sanctuary terms in state waters. Consistent with the intent of section 304(b) of MPRSA, the Secretary shall issue the final management plan and regulations within 30 months of the date of enactment of the Florida Keys Protection Act.

Sec. 103. Advisory Council

This section creates a 15-member Advisory Council to help develop the management plan for the Florida Keys National Marine Sanctuary, to aid in its implementation, and to provide a forum for dispute resolution regarding sanctuary uses. Members of the Council should be drawn from the commercial and recreational users of the Keys (including divers, fishing interests, and treasure salvors), environmental and conservation organizations at both the local and national levels, the marine scientific and educational community, and government. To provide the most useful advice, Council

members should have special knowledge of the resources of or threats to the Florida Keys. The Council will provide users of the marine resources of the Florida Keys and other interested parties a voice in the management of the new sanctuary.

Subsection (b) specifies the composition of the council, requiring members from five Federal agencies with program responsibilities in the Florida Keys, the South Atlantic Regional Fishery Management Council, three State of Florida government representatives, three individuals appointed by the Governor of Florida, and three individuals appointed by the Board of County Commissioners of Monroe County, Florida. The appointed members serve staggered terms so that the Governor and the Board will be reappointing a new member of the Council every two years.

Subsection (c) waives the provisions of the Federal Advisory Committee Act ((FACA, 5 U.S.C. App. 2) which require the filing of a charter for the Council before business can be conducted and a re-filing of the charter every two years. All other provisions of FACA apply.

TITLE II—PROHIBITION ON CERTAIN VESSEL TRAFFIC

Sec. 201. Area to be avoided

This section codifies as part of U.S. domestic law a proposed Coast Guard Area to be Avoided (ATBA) within the U.S. 12-mile territorial sea along the Florida Keys. The boundaries of the ATBA do not coincide exactly with the boundaries of the Florida Keys National Marine Sanctuary, but extend farther north and west and delete certain shipping channels located between Keys. The precise boundaries of the ATBA can be found in the previously referenced Federal Register notice. The ATBA is consistent with international law as it provides a channel for innocent passage of all vessels within the U.S. territorial sea while protecting an important U.S. natural resource, the coral reefs of the Keys.

Tankers and barges which transport oil or hazardous substances are prohibited within the ATBA, as well as vessels greater than 50 meters in length. Although the Committee is aware that smaller vessels have grounded on the coral reefs of the Keys, larger vessels pose a significantly greater potential for serious grounding damage. Moreover, the Secretary of Commerce may regulate smaller vessel traffic (as well as place other types of restrictions on vessels) within the Florida Keys National Marine Sanctuary under the management plan developed under title I to protect further the coral and other resources of the Florida Keys National Marine Sanctuary. The Committee intends that such regulations be considered during development of the comprehensive management plan.

The prohibition (including geographic area and type of vessel affected) may be modified by regulation issued jointly by the Secretaries of Transportation and Commerce. This will allow the ATBA in this Act to be modified, if necessary, to comport with the international ATBA expected to be approved by the International Maritime Organization in 1991.

A delayed effective date is provided in subsection (c) to allow sufficient notice of the restriction to mariners.

Sec. 202. Penalties

Penalties for violating the prohibition in section 201 are \$50,000 per violation per day, as provided in title III of MPRSA. Vessels used to violate the section are liable in rem and are subject to forfeiture.

The Committee is aware that prosecution of violators of MPRSA is both costly and time-consuming. It is recommended that NOAA assess the adequacy of the penalties provided in MPRSA as a deterrent to sanctuary violations.

TITLE III—MISCELLANEOUS

Sec. 301. Prohibition

All mineral leasing, exploration, production, and development, including offshore oil and gas, is prohibited in the Florida Keys National Marine Sanctuary.

COST OF THE LEGISLATION

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates the total annual cost of this legislation to the Federal Government is \$750,000. The Committee accepts the estimates of the Congressional Budget Office for outlays included in this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3719 would have no significant inflationary impact on the economy.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of Rule XI of the Rules of the House of Representatives:

(A) The Subcommittees on Oceanography and Great Lakes and Fisheries and Wildlife Conservation and the Environment held a hearing on H.R. 3719 on May 10, 1990.

(B) The Committee on Merchant Marine and Fisheries has received no reports from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 4(c)(2) of Rule X of the Rules of the House of Representatives.

(C) The Director of the Congressional Budget Office has furnished the Committee with a report fulfilling the requirements of section 308(a) of the Congressional Budget Act of 1974 and an estimate and comparison of cost of H.R. 3719 pursuant to section 403 of the Congressional Budget Act of 1974. The report reads as fol-

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 1990.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3719, the Florida Keys Protection Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3719.
2. Bill title: Florida Keys Protection Act.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, June 27, 1990.
4. Bill purpose: H.R. 3710 would establish the Florida Keys National Marine Sanctuary and would require the Secretary of Commerce to develop and implement a management plan for the sanctuary. For this purpose, the bill would authorize the appropriation of \$750,000 for each of the fiscal years 1991 and 1992.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	0.8	0.8			
Estimated outlays6	.8	0.2		

The costs of this bill would be in budget function 300.

Basis of estimate: This estimate is based on assumptions that the full amounts authorized would be appropriated for each fiscal year and that outlays would reflect historical spending patterns for similar activities.

6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Michael Sieverts.
10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

The Committee requested reports from the Departments of Commerce, Interior, State and Transportation. No departmental reports have been received on H.R. 3719.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

16 U.S.C. 1444

§ 1444. Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this title the following:

(1) **GENERAL ADMINISTRATION.**—For general administration of this title—

- (A) \$1,800,000 for fiscal year 1989;
- (B) \$1,900,000 for fiscal year 1990;
- (C) \$2,000,000 for fiscal year 1991; and
- (D) \$2,100,000 for fiscal year 1992.

(2) **MANAGEMENT OF SANCTUARIES.**—For management of national marine sanctuaries designated under this title—

- (A) \$2,000,000 for fiscal year 1989;
- (B) \$2,500,000 for fiscal year 1990;
- [(C) \$3,000,000 for fiscal year 1991; and
- [(D) \$3,250,000 for fiscal year 1992.]
- (C) \$3,750,000 for fiscal year 1991; and
- (D) \$4,000,000 for fiscal year 1992.

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